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22 April 1981

MEMORANDUM FOR: See Distribution


STAT FROM

: 
Associate Deputy General Counsel

Robert M. Gates
Director, DCI/DDCI Executive Staff

SUBJECT : Revision of Non-Restriction Sections
of E.O. 12036

STAT

1. Attached is the latest version of the E.O. 12036 non-restriction section issues paper that has been prepared on behalf of  for the NFAC meeting Monday, 27 April 1981. In order to more fully report on the results of the working group meeting last Monday and to review the issues presented in the attachment, we have scheduled a meeting in the DCI Conference Room for 3:00 tomorrow, Thursday, 23 April. As in the past, we would ask that you or someone authorized to act for you attend if you still have an interest in this subject.

2. You will note that the attachment, except in a relatively few cases, does not propose specific language for the Order but merely seeks decisions on broad issues. The purpose of the meeting Monday will be to decide these broad issues; however, any not identified in the paper need to be discussed tomorrow in order that we might make efforts to include them on Monday's agenda.

STAT



Robert M. Gates

Attachment:
As stated

SUBJECT: Revision of Non-Restriction Sections of E.O. 12036

Distribution:

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Director
Intelligence Community Staff
Washington, D.C. 20505

Memorandum for Holders-3 of
NFIB/NFIC-1.2/6
23 April 1981

MEMORANDUM FOR: National Foreign Intelligence Council

STAT FROM:

Director, Intelligence Community Staff

SUBJECT: Report of Intelligence Community Views on Needed
Revisions to Executive Order 12036

1. This report presents consolidated Intelligence Community views for consideration by the National Foreign Intelligence Council (NFIC) on needed revisions to Executive Order (EO) 12036, "United States Intelligence Activities." These views have been developed in response to the Acting DCI's request in NFIC-A-2, dated 17 March 1981. This report is based on a 20 April 1981 meeting of an ad hoc working group representing the members of NFIC and sets forth preliminary department and agency positions on revisions proposed by members of the Intelligence Community.

2. The report is divided into two parts. The first part contains proposed changes to EO 12036 on which there appears to be disagreement among NFIC member agencies or which are considered to raise significant policy issues or questions. The second part of the report contains proposed changes which do not appear to raise significant policy issues or disagreement within the Intelligence Community, or are of a technical nature. In accordance with the terms of reference for this review, it should be noted that certain sections of EO 12036 are not addressed herein. Sections 1-1 (National Security Council), 1-2 (NSC Policy Review Committee), and 1-3 (NSC Special Coordination Committee) were not considered because the DCI has proposed and forwarded to the President suggested revisions for those provisions. The report does not address any restrictions on intelligence activities contained in Section 2 of EO 12036 or other provisions previously considered by NFIC. Finally, Section 3 of the Order, which deals with oversight of intelligence organizations, was addressed for the limited purpose of reviewing the standard for reporting activities to the Intelligence Oversight Board or any successor organization, and to determine how

language concerning Congressional oversight should be handled in view of passage by the last Congress of statutory oversight provisions.

PART II. SIGNIFICANT CHANGES/ISSUES

Issue 1: Should the NFIB (and NFIC) be established by Executive Order?

Discussion: Section 1-4 of EO 12036 establishes the NFIB for the purpose of advising the DCI on designated intelligence matters and specifies its membership. In his memorandum to the Intelligence Community of 9 March 1981, the DCI restructured the NFIB and created the NFIC pending formal review and revision of EO 12036.

It has been proposed that establishment of these principal advisory bodies and specification of their functions be accomplished under the DCI's own authority, such as that contained in section 1-601(m) of the Order, which authorizes the DCI to establish committees and advisory groups to assist in the execution of his responsibilities. The principal reason for not creating NFIB and NFIC in the Executive Order would be to allow the DCI the flexibility to change their membership and functions as circumstances warrant. Clearly, it would be more difficult to accomplish such changes if they must be directed by the President. Furthermore, since NFIB and NFIC exist for the purpose of advising the DCI concerning matters which are primarily DCI functions and responsibilities, it may not be appropriate to dictate in an Executive Order the specific membership of the two bodies and a division of responsibilities between them.

There is substantial feeling within the Intelligence Community that the NFIB and NFIC should be established in the Executive Order. Representatives from the Community view such establishment as a means of ensuring that their particular views would be heard and considered by the DCI. It may also be viewed as necessary to have the President direct that Community views be obtained by the DCI on specified matters.

Community Positions: State, DoD, Justice and Treasury favor establishment of the NFIB and NFIC by Executive Order. CIA favors establishment of NFIB and NFIC under the DCI's authority.

Sub-Issue 1A: Regardless of whether the NFIB and NFIC are established by Executive Order or by DCI Directive, should the DCI be required to obtain the formal advice of those bodies on certain matters?

Discussion: The Executive Order does not mandate that the DCI seek the formal advice of NFIB on the performance of any DCI duty or function except development of a consolidated NFIP budget (section 1-602(c)). Instead, the Order creates NFIB to advise the DCI generally on designated intelligence matters (see sub-sections 1-401(a) through (f)), but otherwise commits to the DCI the responsibility to formulate, decide and execute policy concerning most, if not all, of those matters. It has been proposed that the DCI exercise certain functions only with the advice of NFIB or NFIC. At an ad hoc working group meeting the principal argument advanced in favor of requiring NFIB/NFIC advice on specific DCI responsibilities was that the NFIB had not been used in the past. Arguments to the contrary are set forth below under each sub-issue. Specifically:

(1) Should the DCI's responsibility for the formulation of policies concerning intelligence arrangements with foreign governments and the coordination of intelligence relationships between agencies of the Intelligence Community and intelligence or internal security services of foreign governments be subject to NFIB/NFIC advice?

Section 1-4 of the Order gives to NFIB an advisory role in this area, which is repeated in the DCI's memorandum of 9 March 1981 which restructures NFIB. Thus, there is no intent to eliminate this advisory function. However, section 1-601(g) of EO 12036 charges the DCI with this responsibility, but does not require NFIB advice in its execution. The Order clearly commits to the DCI the authority to make policy decisions with respect to intelligence arrangements with foreign governments. To require the formal advice of a Community body may be burdensome to the decision-making process, and to require such advice with respect to the DCI's coordination responsibility would seem to be impractical.

Community Positions: State favors making the execution of this DCI responsibility subject to NFIB/NFIC advice.

(2) Should the DCI's responsibility for development of a consolidated NFIP budget be subject to NFIB/NFIC advice?

Section 1-601(c) of EO 12036 requires the DCI to develop a consolidated NFIP budget "with the advice of NFIB and the departments and agencies concerned." It has been proposed that the requirement for formal NFIB advice be deleted and that only the advice of the departments and agencies concerned be obtained.

As a practical matter, this issue boils down to whether there is any need for a formal NFIB/NFIC review of the consolidated NFIP budget in addition to that which is obtained from the departments and agencies affected during the course of budget development. To continue a requirement for formal review may be redundant, although the DCI's memorandum of 9 March 1981 gives NFIC this responsibility.

Community Positions: CIA favors elimination of the requirement for formal review of the NFIP budget by NFIB.

Issue 2: Should the DCI's authority with respect to the National Foreign Intelligence Program budget be modified?

Discussion: It has been proposed by CIA that section 1-602 of EO 12036 be reworded as follows:

Provide guidance for National Foreign Intelligence Program and budget development to Intelligence Community program managers and department and agency heads;

Develop, with the advice of the departments and agencies concerned, the consolidated National Foreign Intelligence Program budget and present it to the President through the Office of Management and Budget;

Present and justify the National Foreign Intelligence Program budget to the Congress;

Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accord with guidelines established by the Office of Management and Budget.

Elimination of the phrase "full and exclusive authority for approval of the NFIP budget" in the stem of section 1-602 and similar language in section 1-602(f) is stylistic and is not intended to effect any substantive change in the authority of the DCI.

The proposed modification of section 1-602 appears to raise the following sub-issue:

Sub-Issue 2A: Should the requirement for consultation with the head of any department or agency affected by reprogramming and with the Congress be eliminated?

Discussion: Section 1-602(f) of EO 12036 authorizes the Director of Central Intelligence to reprogram NFIP funds in accordance with OMB guidelines, but "only after consultation with the head of the department affected and appropriate consultation with Congress." Elimination of these formal consultation requirements may not result in any change in practice. The replacement language for section 1-602 proposed by CIA permits the DCI to act on "requests" for reprogramming and implies consultation with the heads of affected departments and agencies. The language requiring consultation with the Congress may be unnecessary because of the statutory requirement contained in section 103 of the Intelligence Authorization Act for Fiscal Year 1981. That provision requires prior notification of the appropriate committees by the DCI or the Secretary of Defense for any obligation or expenditure of funds for any program in an amount in excess of the amount specified for that program in a classified schedule of authorizations.

Community Positions: The CIA supports this proposal. While the other members of the ad hoc working group generally agreed that the DCI's NFIP budget authority should be streamlined along the lines suggested by CIA, there is sharp disagreement with the specific CIA recommendation to delete language which requires DCI consultation with affected department heads on reprogramming. It is clearly the consensus of the other members of the working group that the language requiring such consultation be retained, though the working group did agree with the CIA recommendation to delete language requiring the DCI to consult with Congress before reprogramming.

Issue 3: Should the DCI be permitted to establish minimum security standards for the protection of intelligence sources and methods and foreign intelligence and counterintelligence?

Discussion: Sections 1-604 and 1-601(i) of EO 12036 respectively require the DCI to ensure the development of programs to protect sources and methods and to establish common security and access standards for foreign intelligence systems, information, and products. It has been proposed that these authorities be changed to permit the DCI to establish minimum security standards for the protection of such information.

Currently, different security standards govern persons in the Intelligence Community who have access to the same intelligence information. In the area of Sensitive Compartmented Information (SCI), however, there are minimum requirements that do not preclude agencies from having higher standards. Section 1-601(i), which implements to some extent the responsibility of the DCI to protect intelligence sources and methods, has been interpreted as only providing the DCI with a narrow mandate to take necessary steps for the protection of SCI. The proposed amendment would explicitly extend the DCI's mandate beyond SCI to include all intelligence, counterintelligence, and sources and methods information. The proposed amendment would only permit the DCI to establish minimum standards and would provide that these standards and procedures would be applicable only to the extent not prohibited by statutory requirements applicable to any department or agency.

Community Positions: The CIA, DoE, and Treasury support this proposal. Army, DIA, DoD, and DoJ object. FBI objects unless it is known what kind of standards will be promulgated. OSAF wants to retain the current language on this subject, though it does not object to the proposal. NSA has no views on this issue.

Sub-Issue 3A: Should the DCI be required to develop specific means to protect intelligence sources and methods from unauthorized disclosure?

Discussion: Section 1-604 of EO 12036, in requiring the DCI to ensure that programs are developed which will protect intelligence sources and methods, limits that responsibility within the United States to (a) using lawful means to protect against disclosures by present or former employees of the CIA and Office of the DCI or by persons or organizations presently or formerly under contract with those entities, and (b) providing policy guidance and technical assistance to other departments and agencies regarding protection of intelligence information. It has been proposed that section 1-604 be eliminated and replaced with a charge that the DCI develop, in accordance with applicable law and the restrictions contained in the Order, specific means to protect intelligence sources and methods from unauthorized disclosure. The requirement that the standards be in accordance with the restrictions in the Order is intended to replace the current limitations in subsections 1-604(a) and (b) that were included to prevent the DCI's statutory authority to protect sources and methods from being used to conduct unlawful investigations. The suggested new limitation is intended to achieve the same effect.

Community Positions: The CIA, DoE, and Treasury support this proposal. Army, DIA, DoD, DoJ, and FBI object to this proposal. NSA objects to this proposal because it could be construed to contravene P.L. 88-290. State objects to this proposal unless it can be shown that the current language on this subject is inadequate.

Issue 4: Should section 1-606 of the Order, which requires that the CIA provide departments and agencies with access to all CIA intelligence relevant to their national intelligence needs, be deleted?

Discussion: The deletion of section 1-606 of the Order has been proposed because of the apparent overlap with sections 1-601(a) and 1-603 of the Order. Section 1-601(a) directs the DCI to provide "other officials in the Executive Branch with national foreign intelligence." Section 1-603 gives the DCI full responsibility for the "dissemination of national foreign intelligence." However, close examination of these sections indicates that their overlap with section 1-606 is far from complete.

While both sections 1-601(a) and 1-603 concern "national foreign intelligence," section 1-606 requires the DCI to provide the heads of departments and agencies access to all "intelligence" developed by the CIA relevant to their national intelligence needs. Intelligence includes foreign intelligence (not limited to "national" foreign intelligence) and counter-intelligence. While the requirement under section 1-606 is to provide intelligence which is relevant to the "national intelligence needs of departments and agencies," that may encompass more than just "national foreign intelligence." Thus, section 1-606 may not to be surplusage, and, if it is deleted, departments and agencies may regard the deletion as an attempt to deny them access to intelligence which they view as relevant to their needs.

Community Positions: The CIA and DoE support this proposal. DoD, DIA, and Treasury object to this proposal.

Issue 5: Should the term "senior officials of the Intelligence Community" be replaced by more specific language?

Discussion: Section 1-7 of EO 12036 assigns numerous responsibilities to "senior officials" of agencies within the Intelligence Community, but it is unclear who such officials may be. It has been proposed that this language be sharpened to indicate more specifically the identities of such officials. If

such officials are deemed to be the heads of organizations specified in the definition of Intelligence Community in section 4-207 of the Order, a severe administrative and operational problem may be created for certain Cabinet departments, where the Cabinet Secretary has delegated to lesser officials the operational authority for intelligence activities, thus expecting those lesser officials to carry out the duties imposed by section 1-7 of the Order. In such a case, the Cabinet Secretary may be forced to assume responsibilities which it would be more practical for that Cabinet Secretary to delegate. Moreover, if senior officials are deemed to be agency or department heads, then it would seem to absolve all lesser officials with operational authority from any responsibility for their actions.

If senior officials are deemed to be senior intelligence officers, an administrative and operational problem may be created for other Cabinet departments, where senior intelligence officers are not vested with certain, nondelegable Cabinet-level authorities necessary to fulfill the responsibilities contained in section 1-7 of the Order. In such a case, it may be improper or unlawful for the Cabinet Secretary to delegate the necessary authority and the senior intelligence officer of that Cabinet department may be unable to comply with section 1-7 of the Order.

A possible solution to the dilemma raised by this language might be to replace the term "senior officials of the Intelligence Community" with the term "heads of departments and agencies with organizations in the Intelligence Community, and heads of such organizations."

Community Positions: DoE and Treasury support replacing the term "senior officials of the Intelligence Community" by more specific language. DoD and DoJ object to any such change.

Issue 6: Should the DCI's authority to coordinate U.S. intelligence relationships with intelligence services of foreign governments be limited such that the DCI may only coordinate U.S. liaison with foreign clandestine services?

Discussion: DoD has proposed certain amendments to the Order which would appear to significantly affect the DCI's foreign liaison coordination authority. The DCI's authority in this area is delineated in section 1-601(g) of the Order, which provides, inter alia, that the DCI shall coordinate U.S. intelligence relationships with intelligence services of foreign governments. DoD has proposed amending this section to limit the DCI's coordinative role to that of coordinating U.S. liaison with foreign clandestine services. Under the DoD formulation,

presumably any "intelligence relationship" which is not cast as "U.S. liaison" would not be subject to the DCI's coordination. Moreover, any liaison with foreign intelligence services other than "foreign clandestine services" would not be within the purview of DCI coordination authority. These presumptions are supported, in part, by a new section 1-1113 of the Order which DoD has proposed. That new section would provide that the Secretary of Defense shall:

Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations.

This provision would enable the Secretary of Defense to conduct "military intelligence relationships" with "foreign defense establishments and international organizations" without any DCI coordination. DoD believes that it is necessary to have service-to-service intelligence relationships with foreign governments unencumbered by any coordination external to DoD.

The purpose of centrally coordinating foreign liaison relationships is to ensure that U.S. intelligence agencies are not played off against one another by opportunistic foreign governments seeking to gain advantage over the U.S. and to prevent U.S. intelligence agencies, in the conduct of their liaison arrangements and activities, from unwittingly interfering with, or undercutting, one another. Dilution of the DCI's role would undermine such coordination. It should be noted that DoD has also proposed a new section 1-1202(j), which authorizes NSA to conduct foreign cryptologic liaison relationships. However, NSA cryptologic liaison conducted under this section is required to be consistent with the policies and procedures of the DCI.

Community Positions: DoD supports amendments to the Order which would limit the DCI's foreign liaison coordination authority and expand the authority of the Secretary of Defense in this area. The CIA opposes the amendments.

Issue 7: Should the DCI be specifically required to establish a program to improve access to national foreign intelligence by U.S. and allied operational military forces?

Discussion: DoD has proposed that the DCI be specifically required to establish a program, in coordination with the Secretary of Defense, to improve military access to national foreign intelligence. This proposal would appear to be unnecessarily duplicative. Under provisions of the current Order, the DCI has

the authority to establish such a program or to improve military access to national foreign intelligence by any other means. Section 1-502(c) of the Order provides the DCI with the authority (currently exercised through the NITC) to ensure the appropriate dissemination of data collected by national foreign intelligence collection means, and to specifically ensure that intelligence resulting from such data is routed to relevant commands. Section 1-603 of the Order provides the DCI with the full responsibility for the dissemination of national foreign intelligence. Thus, both of these sections provide the DCI with ample authority to accomplish the end proposed by DoD. However, this proposal would place greater emphasis on the need to improve military access to national foreign intelligence and ensure that implementing programs would be established in coordination with the Secretary of Defense.

Community Positions: DoD supports this proposal.

Issue 8: Should the Drug Enforcement Administration (DEA) be removed from the Intelligence Community?

Discussion: By law, DEA is the "lead agency" in federal narcotics enforcement matters. However, its foreign narcotics intelligence role is less clearly defined. Overseas, DEA collects operational and tactical information leading to the arrest of traffickers, as well as information of a strategic or national-level nature. The CIA concentrates its efforts on information of importance to policymakers on major strategic questions, such as narcotics-related corruption of foreign political leaders. The DCI has the responsibility for coordinating all intelligence liaison and clandestine foreign intelligence operations conducted abroad, including intelligence in the narcotics field, and CIA has been designated to perform this role on behalf of the DCI. Both organizations are obligated to share narcotics intelligence reporting with one another. If DEA were removed from the Intelligence Community, the narcotics intelligence liaison and clandestine narcotics intelligence activities of DEA would no longer be subject to DCI coordination. Furthermore, DEA would no longer have a responsibility to produce narcotics intelligence or to disseminate that intelligence to CIA.

On the other hand, DEA is a law enforcement agency and its functions and interests are largely law enforcement in nature. Though the intelligence elements of DEA are a part of the Intelligence Community under the Order, in many respects DEA has not been treated as such and the Order has been little implemented in that regard. In addition, DoJ indicates that because

of DEA's identification as an intelligence agency, DEA's interests abroad have been impaired. Thus, DoJ believes that DEA is in the position of being harmed more than helped by its inclusion in the Intelligence Community. If DEA were removed from the Intelligence Community, DoJ has stated that DEA would still be able to coordinate its information-gathering abroad with the collection activities of the Intelligence Community. Moreover, DoJ has stated that DEA would still be able to maintain a relationship between its analysis, production, and reporting elements and those of the Intelligence Community. (Absent membership in the Intelligence Community, it is unclear whether or not DEA collection, production, and dissemination activities would be subject to the restrictions of the Order which, of course, were intended to apply to all intelligence activities.)

Community Positions: The Justice Department supports removing DEA from the Intelligence Community. The CIA opposes the removal of DEA from the Intelligence Community. However, a compromise may be possible if the Order were amended to require that DEA liaison, and other narcotics intelligence activities abroad, be coordinated with the DCI, and that DEA narcotics intelligence continue to be produced for and disseminated to CIA. Other members of the ad hoc working group favor this approach.

Issue 9: Should a definition of the term "coordination" be added to the Executive Order?

Discussion: Executive Order 12036 requires certain operational activities to be coordinated by or with specified agencies, as in the requirement of 1-1401 and 1-1402 for the FBI to coordinate activities with the Department of Defense or with the CIA; in 1-1204 for the military to coordinate certain activities within the United States with the FBI; and in 1-801 and 1-805 for the CIA to conduct foreign intelligence and counter-intelligence collection within the United States in coordination with the FBI.

This proposal is not intended to have application to other concurrence or coordination authorities which may exist elsewhere in the Order, but to be narrowly confined to those coordination authorities or responsibilities between operational agencies pertaining to intelligence activities.

It has been suggested that the following definition, taken from existing CIA/FBI and DoD/FBI procedures, modified in accordance with the above, be considered:

Coordination as used as an intelligence agency jurisdictional functional authority concerning intelligence activities means the process of eliciting comments prior to undertaking a proposed action. No such action will be taken so long as the party with whom the action in question is raised continues to have objections which cannot be resolved.

The consensus of the ad hoc working group was that there did not appear to be any problem with current operational coordination which would necessitate adoption of a definition of the term in the Executive Order.

Community Positions: The FBI supports the adoption of the definition of "coordination." DoD and CIA are opposed to defining the term in the Order.

PART II. INFORMATIONAL ISSUES/TECHNICAL CHANGES

1. The State Department wishes to emphasize that the Secretary of State's responsibility to ensure that national foreign intelligence activities are useful to and consistent with U.S. foreign policy is not limited solely to a responsibility to coordinate with the DCI to achieve that end. Thus, State has proposed, without objection, that section 1-904 of EO 12036 be rephrased as follows:

Ensure that national foreign intelligence activities are useful to and consistent with United States foreign policy."

2. Section 3 of EO 12036 currently requires that Inspectors General and General Counsel of the agencies within the Intelligence Community report to the IOB concerning any activities that raise questions of legality or propriety. There is general agreement within the Community that this standard, when interpreted literally, is overbroad and difficult of application. The ad hoc working group considered the following reformulations of the reporting standard:

To report intelligence activities which violate the Constitution or laws of the United States, Executive Orders, Presidential Directives, or departmental or agency rules or regulations, or which raise serious questions of propriety;

To report intelligence activities which raise serious questions of legality or propriety; or

To report intelligence activities which violate the Constitution or laws of the United States, Executive Order or Presidential Directives, or which raise serious questions of legality or propriety.

No clear consensus was developed as to which, if any, of these standards should be adopted.

3. There was general agreement that the National Intelligence Tasking Center (NITC) authorized by section 1-5 of EO 12036 had never really been established. It was proposed, without objection, that reference to it be eliminated from the Order and that its functions be transferred directly to the DCI. These functions would permit the DCI to establish mechanisms to translate foreign intelligence objectives and priorities developed by the NSC into specific guidance for the Intelligence Community, to ensure timely exploitation and appropriate dissemination of national foreign intelligence, to provide advisory tasking to departments and agencies not within the National Foreign Intelligence Program, and to resolve tasking conflicts of priority for national foreign intelligence activities.

4. Section 1-601(d) of EO 12036 requires the DCI to "[d]evelop, consistent with the requirements and priorities established by the PRC, such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence." It was agreed that "PRC" should be changed to "NSC."

5. Sections 1-601(h) and 1-712, respectively, of EO 12036 require the DCI and senior officials of the Intelligence Community to conduct programs to protect against overclassification of foreign intelligence information. The thrust of these sections is to prevent perceived abuse of the classification system. Like much of EO 12036, the tone of these sections is both negative and condemnatory. There was general agreement that this requirement should be recast in a positive manner. The following two proposals were suggested:

Execute programs to protect against improper national security classification of foreign intelligence.

Execute programs to protect foreign intelligence through proper classification.

6. Section 1-606(j) of EO 12036 requires the DCI to participate in the development of procedures required to be approved by the Attorney General governing the conduct of intelligence activities. Since the DCI had not played a role in the development of such procedures except those for CIA, there was general agreement that this responsibility could be deleted from the Order.

7. Section 3-4 of EO 12036 sets forth detailed provisions concerning the manner in which the Intelligence Community's responsibility to assist in Congressional oversight will be carried out. However, in the Intelligence Authorization Act for Fiscal Year 1981, the last Congress established a statutory framework for legislative oversight. This framework sets forth the responsibilities of the DCI, the Intelligence Community and the Intelligence Committees of the Congress in all oversight matters. These detailed statutory provisions incorporate the key provisions in section 3-4 of the Order and thus make continuation of a detailed provision unnecessary. Thus, there was general agreement that section 3-4 of the Order be replaced by language along the following lines:

Section 3-4. Congressional Oversight.
The duties and responsibilities of the Director of Central Intelligence and the heads of other departments and agencies within the Intelligence Community to cooperate with and assist the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, §413.

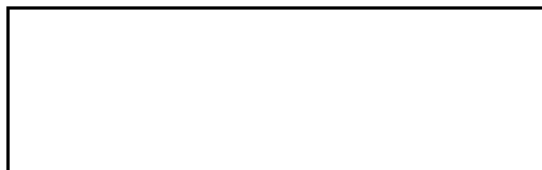
8. The National Security Agency proposed a new definition of the term "communications security." The new definition is not objectionable as long as it is understood that the definition is not intended to include or encompass any aspect of computer security or computer security programs.

9. Section 1-1203(b) of EO 12036 requires the "offices for the collection of specialized intelligence through reconnaissance programs" to respond to "tasking through the NITC." It has been proposed that these "offices" now be charged with "responding to tasking for national, departmental and tactical purposes in accordance with procedures established by the DCI." This DoD

proposal, which was modified with the agreement of the ad hoc working group, is unobjectionable.

10. Section 1-504 of EO 12036 provides that all responsibilities and authorities of the DCI concerning the NITC shall be transferred to the Secretary of Defense upon express direction of the President, and requires regular practice exercises for such transfer. Since the NITC will be eliminated from the Order and its responsibilities assumed directly by the DCI and whatever mechanisms he establishes, it was agreed by the ad hoc working group that it would be appropriate to require the DCI to conduct the planning necessary to enable an orderly and efficient transfer of collection tasking responsibilities to occur when directed by the President under appropriate circumstances. Thus, the following or similar language should be added to the appropriate section of the Order requiring the DCI to translate national foreign intelligence requirements and priorities into specific collection objectives or guidance:

... and ensure that planning is conducted to accomplish the transfer of this responsibility to the Secretary of Defense when directed by the President.



Director, Intelligence
Community Staff

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